



22852

PATENT TRADEMARK OFFICE

RECEIVED

APR 19 2002

#9  
YC  
4.24.02

TECH CENTER 1600/2900  
PATENT  
Application No.: 09/717,204

Attorney Docket N . 5725.0642-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
 )  
Sam B. Morrison ) Group Art Unit: 1617  
 )  
Application No.: 09/717,204 ) Examiner: M. Willis  
 )  
Filed: November 22, 2000 )  
 )  
For: A TRANSFER RESISTANT )  
 )  
ANHYDROUS COSMETIC )  
 )  
COMPOSITION )

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

**RESPONSE TO ELECTION OF SPECIES REQUIREMENT**

In the Office Action mailed March 27, 2002, the Examiner has required an election of a single disclosed species of the at least one triblock copolymer film former. Applicant elects with traverse, styrene/butylene/ethylene/styrene copolymer. Styrene/butylene/ethylene/styrene copolymers are disclosed, for example, in the specification at page 7, third to last line, page 8, line 1, and read on claims 1, 2, and 4-28.

Applicant traverses this election of species requirement on the grounds that the Examiner has not shown that there would be a serious burden to examine all of the alleged species. In fact, the Examiner has failed to show that any burden exists. See page 2 of the present Office Action. Applicant refers the Examiner to M.P.E.P. § 803;

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER LLP

1300 I Street, NW  
Washington, DC 20005  
202.408.4000  
Fax 202.408.4400  
www.finnegan.com

which sets forth the criteria and guidelines for Examiners to follow in making proper requirements for restriction. The M.P.E.P. instructs Examiners as follows:

If the search and examination of an entire application can be made without serious burden, the Office must examine it on the merits, even though it includes claims to distinct or independent inventions.

M.P.E.P. § 803 (emphasis added).

Accordingly, Applicant respectfully requests that the full scope of the claimed invention be examined in this application. If the Examiner chooses to maintain the election requirement, however, and the elected species is found to be allowable, Applicant expects the Examiner to continue to examine the full scope of the claimed subject matter to the extent necessary to determine the patentability thereof, *i.e.*, extending the search to the non-elected species, as is the duty of the Examiner according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

If the Examiner believes a telephone conference would be useful in resolving any outstanding issues, he is invited to call the undersigned at (202) 408-4173.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

*Shalia V. Wainement, Reg No. 39,064*

By: *for Anthony C. Tridico*  
Anthony C. Tridico  
Reg. No. 45,958

Dated: April 17, 2002

321344

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER LLP

1300 I Street, NW  
Washington, DC 20005  
202.408.4000  
Fax 202.408.4400  
www.finnegan.com